



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Disability Services Administration

☐ Permanent Rule
☒ Emergency Rule

Effective date of rule:

Permanent Rules

☐ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☒ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain: _____

Purpose: The purpose of this rule is to clarify that a client has the right to an administrative hearing if the department reduces or terminates services that were previously authorized through an exception to rule. This rule extends the emergency rule filed as WSR 06-11-081. The Proposed Rule Making document for permanent adoption, WSR 06-16-075, was filed on July 28, 2006 and the public hearing is scheduled for September 5, 2006.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 388-825-120
Suspended: None

"Added by DSHS after filing"

Statutory authority for adoption: RCW 71A.12.030

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date)
Describe any changes other than editing from proposed to adopted version: _____

ADOPTION
PERMANENT
EMERGENCY
EFFECTIVE DATE:
9/5/06

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: These rules preserve the public's welfare by clarifying the client's right to an administrative hearing if the department reduces or terminates services that were previously authorized by an exception to rule. This rule extends the emergency rule filed as WSR 06-11-081. The Proposed Rule Making document for permanent adoption, WSR 06-16-075, was filed on July 28, 2006 and the public hearing is scheduled for September 5, 2006.

Date adopted: Sept 5, 2006

NAME (TYPE OR PRINT)
Andy Fernando

SIGNATURE

TITLE
Manager, Rules and Policies Assistance Unit

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 5 2006

TIME 06:48 AM
WSR 06-18-094 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

AMENDATORY SECTION (Amending WSR 05-17-135, filed 8/19/05, effective 9/19/05)

WAC 388-825-120 When can I appeal department decisions through an administrative hearing process? (1) Administrative hearings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC or WAC 388-440-0001(3), the provision in this chapter shall prevail.

(2) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to an administrative hearing.

(3) You have the right to an administrative hearing to dispute the following department actions:

(a) Authorization, denial, reduction, or termination of services;

(b) Reduction or termination of a service that was initially approved through an exception to rule;

(c) Authorization, denial, or termination of eligibility;

~~((c))~~ (d) Authorization, denial, reduction, or termination of payment of SSP authorized by DDD set forth in chapter 388-827 WAC;

~~((d))~~ (e) Admission or readmission to, or discharge from, a residential habilitation center;

~~((e))~~ (f) Refusal to abide by your request not to send notices to any other person;

~~((f))~~ (g) Refusal to comply with your request to consult only with you;

~~((g))~~ (h) A decision to move you to a different type of residential service;

~~((h))~~ (i) Denial or termination of the provider of your choice or the denial of payment for any reason listed in WAC 388-825-375 through 388-825-390;

~~((i))~~ (j) An unreasonable delay to act on an application for eligibility or service;

~~((j))~~ (k) A claim the client, former client, or applicant owes an overpayment debt.